

(2023) 08 DEL CK 0139

In the Delhi High Court

Case No : Civil Writ Petition No. 10840 Of 2023

Mohd Shamshad

APPELLANT

Vs

MCD And Ors

RESPONDENT

Date of Decision : 16-08-2023

Acts Referred:

Constitution of India, 1950 — Article 226
Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014
— Section 3, 4, 6

Citation : (2023) 08 DEL CK 0139

Hon'ble Judges : Siddharth Mridul, J; Anish Dayal, J

Bench : Division Bench

Advocate : Aditya, Kamlesh Kumar Mishra, Kailash Jha, Bibhuti Bhushan Mishra, Anjani Kumar Mishra, Dipak Raj, Tajinder Viridi, Preeti Giri, Chetna Dhudheria, Abhinav Garg, Mohit Bhardwaj

Final Decision : Disposed Of

Judgement

Siddharth Mridul, J

1. The present writ petition under Article 226 of the Constitution of India, 1950, has been instituted on behalf of the petitioner, praying as follows:-

'In the facts and circumstances stated herein above, it is Most Respectfully prayed that this Hon'ble Court may graciously be pleased to:

I. Pass an order directing the respondents to allow the petitioner street vendor to peacefully vend in terms of the Certificate of Vending issued to him.

II. Pass an Order directing the respondents to ensure that the petitioner is allowed to peacefully vend on his vending site i.e., On the Footpath, Near Old Delhi Railway Station, S.P.M Marg, City- SP Zone, ward-84-N without any hindrance being caused by any public official.

III. Pass an order directing the respondents, their officials, their agents etc. be

restrained from harassing the petitioner from peacefully vending at his vending site.

IV. Pass an order directing the respondent MCD to correct the nomenclature in the column for Type of Vendor from "Others" to "Stationary Street Vendor" (in view of the Section 6 of the Act) as detailed in the vending certificate issued to the petitioner.

V. Pass an order for quashing and setting aside the terms of certificate of vending printed at the back side of the vending certificate to the extent which is not applicable to a stationary street vendor.

VI. Pass an order directing the TVC, City SP Zone to decide the representation dated 10.08.2023 made by the petitioner for declaring him as a Stationary Street Vendor in terms of the Section 6 of the Act.

VII. Pass any such directions or order that this Hon'ble Court deems fit and proper in the facts and circumstances of the above-mentioned case.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS ARE DUTY BOUND SHALL EVER PRAY.'

2. Issue notice.

3. Ms. Tajinder Viridi, learned Standing Counsel, accepts notice on behalf of the MCD and Mr. Mohit Bhardwaj, learned counsel accepts notice on behalf of the GNCTD.

4. Learned Standing Counsel appearing on behalf of the MCD, has invited our attention to the terms and conditions, permitting the petitioner to vend.

5. For the sake of completeness, the said terms and conditions attached to the Certificate of Vending, are reproduced herein below:-

"1. Vendor shall not have any other permanent or long-term vending certificate.

2. Vending certificate is non-transferable.

3. It is mandatory for the vendor to follow the vending period and zone as determined by TVC or local body.

4. Vendor shall not give his vending certificate on rent in any way.

5. Vendor shall not have any infectious disease.

6. Vendor shall have to take care of hygiene on vending place/zone and nearby area and also take care of public health.

7. Vendor shall display copy of vending certificate on his place/vending site and will produce original documents to TVC/concerned inspector whenever required.

8. Vendor/Squatter shall insure that no hindrance be caused to pedestrian and vehicular moment.

9. Vendor shall not vend/sell any harmful, dangerous and polluted items. It should also be ensured that the quality of the products sold and services provided to the public conform to the prescribed standards of public health, hygienic conditions and safety.

10. The street vendor shall not do any unauthorized/illegal activity.

11. Mobile vendors shall not stay or vend more than 30 minutes or time prescribed by the TVC at place in a vending/squatting zone.

12. Vendors will not block footpaths and will not vend on roads. Vendor should take care of space in front of vending stalls/counters on footpath for pedestrians.

13. Vending certificate can be cancelled or suspended on the basis of violations.

14. Vendor shall not build or construct any kind of permanent or temporary structure at vending site.

15. Seller shall adopt health and hygiene conditions as required by local laws and court orders.

16. Vendor have to follow all the conditions mentioned in Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019."

6. In terms of the Certificate of Vending issued to the petitioner, it is clearly stipulated that he cannot vend from any particular location, contrary to the express terms of Clause no. '11', of the said Certificate of Vending. It is further observed that since the Town Vending Committee (TVC) is yet to fix a time limit, providing for a period, during which a vendor can vend from any particular spot, the stipulation of 30 minutes time, contained in the said clause, is binding on the petitioner, at this stage. Learned counsel appearing on behalf of the petitioner states, that he does not pray for the relief of running his business from any particular vending site, within the zone where he has been permitted to vend by the Municipal Corporation of Delhi, and further, the limited relief that is prayed for, is to permit the petitioner to vend strictly, in accordance with the terms and conditions of the Certificate of Vending dated 07.11.2021, issued by the Municipal Corporation of Delhi.

7. It is an admitted position that the Town Vending Committee (TVC), has in terms of the directions issued by this Court, from time to time, as well as, in terms of the mandate of Section 3 (Survey of street vendors and protection from eviction on relocation) and Section 4 (Issue of certificate of vending) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, carried out a survey, in some of the areas under the MCD zones; pursuant to which, the petitioner, namely, Mohd Shamshad, has been issued certificate of vending dated 07.11.2021 (URI: 9851178), which is annexed as Annexure P-4, to the present writ petition.

8. In view of the foregoing, learned counsel appearing on behalf of the petitioner, categorically limits the relief in the present writ petition, to a direction to the

Municipal Corporation of Delhi, to permit Mohd Shamshad, to continue to vend within City-SP Zone, Ward-84-N, strictly and scrupulously in compliance with the terms and conditions of the said certificate of vending, particularly Clause no. 11, and in accordance with law.

9. In view of the above, the present writ petition is partly allowed; and the Municipal Corporation of Delhi is directed to permit Mohd Shamshad, the petitioner herein, to vend within City-SP Zone, Ward-84-N, subject to the terms and conditions of the aforementioned certificate of vending dated 07.11.2021, without any let or hindrance.

10. Needless to state that the petitioner will be at liberty to articulate the difficulties faced by him, before the appropriate authorities, in accordance with law, in relation to the certificate of vending, insofar as it employs the expression 'Others'.

11. No further directions are prayed for.

12. With the above directions, the writ petition is disposed of accordingly.

13. A copy of this judgment be uploaded on the website of this Court forthwith.